

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

CIRO MARQUEZ CHAVEZ,)	
Petitioner,)	
)	1:07CV509
v.)	1:97CR265-1
UNITED STATES OF AMERICA,)	
Respondent.)	

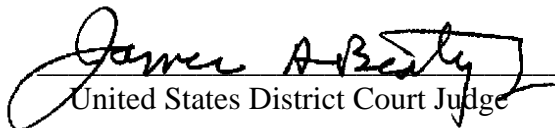
O-R-D-E-R

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on July 18, 2007, was served on the parties in this action. No objections were filed within the time prescribed by § 636.

The court hereby adopts the Magistrate Judge's Recommendation.

IT IS HEREBY ORDERED that the portion of Petitioner's motion for reduction of sentence in which he seeks a downward departure under 18 U.S.C. § 3553 [Pleading No. 73] be construed as a motion to vacate, set aside or correct sentence, and that the motion to vacate be dismissed without prejudice to Petitioner filing a corrected motion on the proper § 2255 forms.

Further, the Court has considered Petitioner's motion for leave to amend [Pleading No. 74] and **DENIES** the motion as futile since the requested amendments would not form the basis for relief.


United States District Court Judge

Date: September 18, 2007